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Crime prevention and criminal justice

International cooperation in criminal matters

Note by the Secretariat

By its resolution 2014/17 of 16 July 2014, the Economic and Social Council recommended to the General Assembly the adoption of the following draft resolution:

International cooperation in criminal matters

The General Assembly,

Recalling the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988,[1] the United Nations Convention against Transnational Organized Crime and the Protocols thereto[2] and the United Nations Convention against Corruption,[3] as well as the international counter-terrorism conventions and protocols,

Conscious of the need to respect human dignity and to give effect to the rights conferred upon every person involved in criminal proceedings, in accordance with applicable international human rights instruments,

Concerned that transnational organized crime has diversified globally and represents a threat to health and safety and to the sustainable development of Member States,

Convinced that transnational organized crime, including in its new and emerging forms, creates significant challenges for Member States and that effective responses depend on strengthened international cooperation in criminal matters,

[1] United Nations, *Treaty Series*, vol. 1582, No. 27627.
[2] Ibid., vols. 2225, 2237, 2241 and 2326, No. 39574.
[3] Ibid., vol. 2349, No. 42146.

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Emphasizing the importance of strengthened and collaborative efforts by all Member States to ensure the creation and promotion of strategies and mechanisms in all areas of international cooperation, especially in extradition, mutual legal assistance, transfer of sentenced persons and the confiscation of proceeds of crime,

Convinced that the establishment of bilateral and multilateral arrangements for mutual assistance in criminal matters can contribute to the development of more effective international cooperation to combat transnational crime,

Bearing in mind that the United Nations standards and norms in crime prevention and criminal justice provide important tools for the development of international cooperation,

Recalling its resolutions 45/117 of 14 December 1990 on the Model Treaty on Mutual Assistance in Criminal Matters and 53/112 of 9 December 1998 on mutual assistance and international cooperation in criminal matters,

Recalling also its resolutions 45/116 of 14 December 1990 on the Model Treaty on Extradition and 52/88 of 12 December 1997 on international cooperation in criminal matters,

Recalling further its resolution 45/118 of 14 December 1990 on the Model Treaty on the Transfer of Proceedings in Criminal Matters,

Recalling the Model Bilateral Agreement on the Sharing of Confiscated Proceeds of Crime or Property,[4]

Recalling also the adoption by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders of the Model Agreement on the Transfer of Foreign Prisoners[5] and the recommendations on the treatment of foreign prisoners,[6]

Taking into consideration the establishment of regional networks, including those established with the assistance of the United Nations Office on Drugs and Crime, such as the Central American Network of Prosecutors against Organized Crime and the Network of West African Central Authorities and Prosecutors against Organized Crime, whose prime objective is to strengthen regional and international cooperation in criminal matters, facilitating cooperation in ongoing cases and the delivery of related legal and technical assistance,

Noting with satisfaction the contributions of the United Nations congresses on crime prevention and criminal justice in promoting international cooperation by facilitating, inter alia, the exchange of experience in research, law and policy development and the identification of emerging trends and issues in crime prevention and criminal justice among States, intergovernmental organizations, non-governmental organizations and individual experts representing various professions and disciplines,

1. *Encourages* Member States to promote and strengthen international cooperation to further develop the capacities of criminal justice systems, including

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[4] Economic and Social Council resolution 2005/14, annex.

[5] *Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: report prepared by the Secretariat* (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. D.1, annex I.

[6] Ibid., annex II.

through efforts to modernize and strengthen relevant legislation related to international cooperation in criminal matters, and the use of modern technology to overcome problems that hinder cooperation in a number of areas, such as witness testimony by videoconference, where applicable, and the exchange of digital evidence;

2. *Urges* Member States that have not yet done so to consider ratifying or acceding to the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988,[1] the United Nations Convention against Transnational Organized Crime and the Protocols thereto,[2] the United Nations Convention against Corruption[3] and the international counter-terrorism conventions and protocols, and calls upon Member States, where necessary, to incorporate the provisions of those instruments into their national legislation;

3. *Calls upon* Member States to apply the principle of "extradite or prosecute" contained in bilateral and regional agreements, as well as in the 1988 Convention, the Organized Crime Convention and the Protocols thereto, the Convention against Corruption and the international counter-terrorism conventions and protocols;

4. *Encourages* Member States, in accordance with their national laws, to afford one another, where feasible, mutual legal assistance in civil and administrative proceedings in relation to the offences for which cooperation is afforded, including in accordance with article 43, paragraph 1, of the Convention against Corruption;

5. *Invites* Member States to conclude bilateral and regional agreements or arrangements on international cooperation in criminal matters, and in doing so to take into account the relevant provisions under the Convention against Corruption, the Organized Crime Convention and the Protocols thereto and the 1988 Convention;

6. *Encourages* Member States, relevant international organizations and institutes of the United Nations crime prevention and criminal justice programme network to strengthen cooperation and partnership with the United Nations Office on Drugs and Crime, which serves as the secretariat to the Convention against Corruption, the Organized Crime Convention and the Protocols thereto and the 1988 Convention;

7. *Urges* Member States that have not yet done so to designate central authorities responsible for mutual legal assistance requests in accordance with article 18, paragraph 13, of the Organized Crime Convention, article 46, paragraph 13, of the Convention against Corruption and article 7, paragraph 8, of the 1988 Convention;

8. *Requests* the United Nations Office on Drugs and Crime to continue to provide technical assistance to Member States, upon request, in order to enhance the capacity of experts and staff of central authorities to effectively and expeditiously deal with mutual legal assistance requests;

9. *Commends* the United Nations Office on Drugs and Crime for its development of technical assistance tools to facilitate international cooperation in criminal matters, and invites Member States in appropriate cases to avail themselves of those tools;

10. *Requests* the United Nations Office on Drugs and Crime to continue to support central authorities in strengthening communication channels and, as appropriate, in exchanging information at both the regional and the international levels, for the purposes of enhancing the effectiveness of cooperation in criminal matters in all its aspects, especially in dealing with requests for mutual legal assistance;

11. *Encourages* Member States to ensure, where possible, that administrative procedures facilitate cooperation in criminal matters relating to the offences falling within the scope of the Organized Crime Convention, the Convention against Corruption, the 1988 Convention and the international counter-terrorism conventions and protocols, in accordance with national legislation;

12. *Also encourages* Member States to review their national policies, legislation and practices with regard to mutual legal assistance, extradition, confiscation of the proceeds of crime, the transfer of sentenced persons and other forms of international cooperation in criminal matters for the purpose of simplifying and enhancing cooperation among Member States;

13. *Further encourages* Member States to give due consideration to the humanitarian and social dimensions of the transfer of sentenced persons, where legislation provides for such transfer, for the purpose of achieving the greatest possible cooperation in the transfer of foreign prisoners so that they serve the rest of their sentence in their own countries;

14. *Requests* the United Nations Office on Drugs and Crime, in coordination and cooperation with Member States, to collect and disseminate information about the national legal requirements of Member States concerning international cooperation in criminal matters for the purpose of enhancing the knowledge and strengthening the capacity of practitioners so that they can better understand different legal systems and their requirements with regard to international cooperation while avoiding duplication of the work done in the Conference of the Parties to the United Nations Convention against Transnational Organized Crime;

15. *Also requests* the United Nations Office on Drugs and Crime to continue to support the establishment and functioning of regional networks of central authorities responsible for dealing with mutual legal assistance requests, so as to contribute to the exchange of experiences and strengthen knowledge-based expertise in the area of international cooperation in criminal matters and to help to establish international networks and partnerships among Member States;

16. *Invites* Member States to provide input to the United Nations Office on Drugs and Crime concerning the model treaties on international cooperation in criminal matters, in particular addressing the question of the necessity of updating or revising them and the prioritization of such updating or revising;

17. *Also invites* Member States, during the consideration of the appropriate agenda item of the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice, to provide their views regarding the updating or revising mentioned in paragraph 16 above;

18. *Recommends* that the Commission on Crime Prevention and Criminal Justice, at its twenty-fourth session, take into account the input received from

Member States and consider initiating a review of particular model treaties on international cooperation in criminal matters;

19. *Invites* Member States and other donors to provide extrabudgetary resources for the purposes of the present resolution, in accordance with the rules and procedures of the United Nations.